

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-1525-MWD-E **TCEQ ID:** RN102079076 **CASE NO.:** 34658**RESPONDENT NAME:** Upper Trinity Regional Water District

| | | |
|---|---|--|
| ORDER TYPE: | | |
| <input checked="" type="checkbox"/> 1660 AGREED ORDER | <input type="checkbox"/> FINDINGS AGREED ORDER | <input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING |
| <input type="checkbox"/> FINDINGS DEFAULT ORDER | <input type="checkbox"/> SHUTDOWN ORDER | <input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER |
| <input type="checkbox"/> AMENDED ORDER | <input type="checkbox"/> EMERGENCY ORDER | |
| CASE TYPE: | | |
| <input type="checkbox"/> AIR | <input type="checkbox"/> MULTI-MEDIA (check all that apply) | <input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE |
| <input type="checkbox"/> PUBLIC WATER SUPPLY | <input type="checkbox"/> PETROLEUM STORAGE TANKS | <input type="checkbox"/> OCCUPATIONAL CERTIFICATION |
| <input checked="" type="checkbox"/> WATER QUALITY | <input type="checkbox"/> SEWAGE SLUDGE | <input type="checkbox"/> UNDERGROUND INJECTION CONTROL |
| <input type="checkbox"/> MUNICIPAL SOLID WASTE | <input type="checkbox"/> RADIOACTIVE WASTE | <input type="checkbox"/> DRY CLEANER REGISTRATION |
| <p>SITE WHERE VIOLATION(S) OCCURRED: Riverbend Regional Water Reclamation Plant, located on the south side of the Little Elm Creek branch of Lewisville Lake, approximately 3,000 feet northwest of the intersection of United States Highway 380 and Navo Road, Denton County</p> <p>TYPE OF OPERATION: Wastewater treatment facility</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on April 7, 2008. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: Ms. Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223 TCEQ Enforcement Coordinator: Mr. J. Craig Fleming, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-5806; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171 Respondent: Mr. Thomas E. Taylor, Executive Director, Upper Trinity Regional Water District, P.O. Box 305, Lewisville, Texas 75067 Respondent's Attorney: Not represented by counsel on this enforcement matter</p> | | |

VIOLATION SUMMARY CHART:

| VIOLATION INFORMATION | PENALTY CONSIDERATIONS | CORRECTIVE ACTIONS TAKEN/REQUIRED |
|---|---|--|
| <p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: July 16, 2007</p> <p>Date of NOV/NOE Relating to this Case: September 1, 2007 (NOE)</p> <p>Background Facts: This was a routine record review.</p> <p>WATER</p> <p>Failed to comply with permitted effluent limitations for ammonia nitrogen [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. 10698002, Interim II Effluent Limitations and Monitoring Requirements No. 1, Outfalls 001 and 002].</p> | <p>Total Assessed: \$3,400</p> <p>Total Deferred: \$680 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,720</p> <p>Total Paid (Due) to General Revenue: \$0</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> | <p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:</p> <p>a. On November 30, 2006, disabled an automatic chemical feed that malfunctioned and contributed to the November 2006 violation;</p> <p>b. During February 2007, due to ongoing foaming conditions throughout the Facility, the manufacturer of the Facility conducted three days of training on operation and maintenance of the sequencing batch reactors. Additionally, a consultant advised on operation and maintenance for the Facility; and</p> <p>c. During April 2007, returned to compliance with permitted effluent limitations.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p> |

Additional ID No(s): TPDES 10698-002

Attachment A
Docket Number: 2007-1525-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Upper Trinity Regional Water District
Penalty Amount: Two Thousand Seven Hundred Twenty Dollars (\$2,720)
SEP Offset Amount: Two Thousand Seven Hundred Twenty Dollars (\$2,720)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Denton County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall hold a one-day household hazardous waste collection event in Denton County at no cost to citizens. The event shall include collection and proper disposal of cleaning products, paint thinners, petroleum products, and lawn fertilizers. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location; and
- is advertised to the public to ensure participation in the event.

The event will involve a staging area where the Respondent’s employees or contractors shall collect, sort, and properly seal the wastes for transport by a licensed transporter. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, disposal fees, and other approved costs.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of chemicals and wastes that can leach into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached and a total amount of the costs incurred;
2. Map showing specific location of the event area;
3. Photographs of the project;
4. Number of pounds or gallons of wastes collected;
5. A statement of quantifiable environmental benefits;
6. Copies of manifests showing proper transport and disposal of the wastes; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative

of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

| | | | | | | |
|--------------|-----------------|-------------|------------------|-------------|----------------|--|
| DATES | Assigned | 6-Aug-2007 | Screening | 19-Sep-2007 | EPA Due | |
| | PCW | 19-Sep-2007 | | | | |

| | | | |
|--|---------------------------------------|---------------------------|-------|
| RESPONDENT/FACILITY INFORMATION | | | |
| Respondent | Upper Trinity Regional Water District | | |
| Reg. Ent. Ref. No. | RN102079076 | | |
| Facility/Site Region | 4-Dallas/Fort Worth | Major/Minor Source | Minor |

| | | | |
|--|-----------------|--------------------------|-------------------|
| CASE INFORMATION | | | |
| Enf./Case ID No. | 34658 | No. of Violations | 1 |
| Docket No. | 2007-1525-MWD-E | Order Type | 1660 |
| Media Program(s) | Water Quality | Enf. Coordinator | Laurie Eaves |
| Multi-Media | | EC's Team | EnforcementTeam 1 |
| Admin. Penalty \$ Limit Minimum | \$0 | Maximum | \$10,000 |

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes

Culpability Enhancement **Subtotal 4**

Notes

Good Faith Effort to Comply Reduction **Subtotal 5**

Before NOV NOV to EDRP/Settlement Offer

| | | |
|---------------|-------------------------------------|--------------------------|
| Extraordinary | <input type="text"/> | <input type="text"/> |
| Ordinary | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| N/A | <input type="checkbox"/> | (mark with x) |

Notes

Total EB Amounts **0% Enhancement*** **Subtotal 6**
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

PAYABLE PENALTY

Screening Date 19-Sep-2007

Docket No. 2007-1525-MWD-E

PCW

Respondent Upper Trinity Regional Water District

Policy Revision 2 (September 2002)

Case ID No. 34658

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN102079076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

| Component | Number of... | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs | Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria) | 2 | 10% |
| | Other written NOVs | 0 | 0% |
| Orders | Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria) | 0 | 0% |
| | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0 | 0% |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria) | 0 | 0% |
| | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government | 0 | 0% |
| Convictions | Any criminal convictions of this state or the federal government (number of counts) | 0 | 0% |
| Emissions | Chronic excessive emissions events (number of events) | 0 | 0% |
| Audits | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted) | 0 | 0% |
| | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed) | 0 | 0% |
| Please Enter Yes or No | | | |
| Other | Environmental management systems in place for one year or more | No | 0% |
| | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program | No | 0% |
| | Participation in a voluntary pollution reduction program | No | 0% |
| | Early compliance with, or offer of a product that meets future state or federal government environmental requirements | No | 0% |

Adjustment Percentage (Subtotal 2) 10%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

The Respondent self-reported two months of effluent quality violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 10%

Screening Date 19-Sep-2007 **Docket No.** 2007-1525-MWD-E **PCW**

Respondent Upper Trinity Regional Water District *Policy Revision 2 (September 2002)*

Case ID No. 34658 *PCW Revision June 26, 2007*

Reg. Ent. Reference No. RN102079076

Media [Statute] Water Quality

Enf. Coordinator Laurie Eaves

Violation Number

Rule Cite(s)

Violation Description

Base Penalty

>> Environmental, Property and Human Health Matrix

| Release | Harm | | | Percent |
|-----------|----------------------|----------------------|-------------------------------------|----------------------------------|
| | Major | Moderate | Minor | |
| Actual | <input type="text"/> | <input type="text"/> | <input checked="" type="checkbox"/> | <input type="text" value="10%"/> |
| Potential | <input type="text"/> | <input type="text"/> | <input type="text"/> | |

>> Programmatic Matrix

| Falsification | Major | Moderate | Minor | Percent |
|----------------------|----------------------|----------------------|----------------------|---------------------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text" value="0%"/> |

Matrix Notes

Adjustment

Violation Events

Number of Violation Events Number of violation days

mark only one with an x

| | |
|--------------|-------------------------------------|
| daily | <input type="text"/> |
| monthly | <input type="text"/> |
| quarterly | <input checked="" type="checkbox"/> |
| semiannual | <input type="text"/> |
| annual | <input type="text"/> |
| single event | <input type="text"/> |

Violation Base Penalty

| Economic Benefit (EB) for this violation | Statutory Limit Test |
|---|--|
| Estimated EB Amount <input type="text" value="\$207"/> | Violation Final Penalty Total <input type="text" value="\$3,400"/> |
| This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$3,400"/> | |

Economic Benefit Worksheet

Respondent Upper Trinity Regional Water District
Case ID No. 34658
Reg. Ent. Reference No. RN102079076
Media Water Quality
Violation No. 1

| | |
|-------------------------|------------------------------|
| Percent Interest | Years of Depreciation |
| 5.0 | 15 |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas for \$ | | | | | | | |

Delayed Costs

| | | | | | | | |
|--------------------------|----------|------------|------------|-----|-------|-----|-------|
| Equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Buildings | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |
| Engineering/construction | | | | 0.0 | \$0 | \$0 | \$0 |
| Land | | | | 0.0 | \$0 | n/a | \$0 |
| Record Keeping System | | | | 0.0 | \$0 | n/a | \$0 |
| Training/Sampling | | | | 0.0 | \$0 | n/a | \$0 |
| Remediation/Disposal | | | | 0.0 | \$0 | n/a | \$0 |
| Permit Costs | | | | 0.0 | \$0 | n/a | \$0 |
| Other (as needed) | \$10,000 | 1-Nov-2006 | 1-Apr-2007 | 0.4 | \$207 | n/a | \$207 |

Notes for DELAYED costs
 Estimated cost associated with disabling the automatic chemical feed and conducting training on operation and maintenance by the manufacturer of the Facility and a consultant. Date required is the initial month of noncompliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

| | | | | | | | |
|-------------------------------|--|--|--|-----|-----|-----|-----|
| Disposal | | | | 0.0 | \$0 | \$0 | \$0 |
| Personnel | | | | 0.0 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling | | | | 0.0 | \$0 | \$0 | \$0 |
| Supplies/equipment | | | | 0.0 | \$0 | \$0 | \$0 |
| Financial Assurance [2] | | | | 0.0 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3] | | | | 0.0 | \$0 | \$0 | \$0 |
| Other (as needed) | | | | 0.0 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance \$10,000

TOTAL \$207

Upper Trinity Regional Water District
Docket No. 2007-1525-MWD-E
RN102079076

Effluent Violation Table

| | November 2006 | March 2007 |
|---|---------------|------------|
| Outfall 001 | | |
| Ammonia Nitrogen Daily Average Loading Permit Limit = 13 pounds per day | 28.97 | compliant |
| Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 milligrams per liter | 7.39 | 3.71 |
| Ammonia Nitrogen Daily Average Maximum Concentration Permit Limit = 10 milligrams per liter | 24.9 | 25.80 |
| Outfall 002 | | |
| Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 milligrams per liter | 7.39 | 3.71 |
| Ammonia Nitrogen Daily Average Maximum Concentration Permit Limit = 10 milligrams per liter | 24.9 | 25.80 |

Compliance History

Customer/Respondent/Owner-Operator: CN600639272 Upper Trinity Regional Water District Classification: Average Rating: 2.21
Regulated Entity: RN102079076 UTRWD RIVERBEND REGIONAL WATER RECLAMATION PLANT Classification: Average Site Rating: 0.14
ID Number(s): WASTEWATER PERMIT WQ0010698002
WASTEWATER PERMIT TX0123781
Location: on the south side of the Little Elm Creek branch of Lewisville Lake, approximately 3,000 feet northwest of the intersection of United States Highway 380 and Navo Road, Denton County

Rating Date: September 01 08 Repeat Violator: NO

TCEQ Region: REGION 04 - DFW METROPLEX

Date Compliance History Prepared: September 19, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: September 19, 2002 to September 19, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Laurie Eaves Phone: 512/239-4495

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 07/07/2003 (236606)
- 2 08/15/2003 (236607)
- 3 05/13/2004 (493410)
- 4 06/21/2004 (493412)
- 5 07/16/2004 (493414)
- 6 08/24/2004 (493417)
- 7 09/20/2004 (493419)
- 8 10/20/2004 (493421)
- 9 11/19/2004 (493423)
- 10 12/21/2004 (493425)
- 11 01/21/2005 (493427)
- 12 02/16/2005 (493406)
- 13 04/11/2005 (493416)
- 14 04/18/2005 (493409)
- 15 05/19/2005 (493411)
- 16 06/17/2005 (493413)
- 17 07/18/2005 (493415)
- 18 08/19/2005 (493418)
- 19 09/19/2005 (493420)
- 20 10/09/2005 (493422)
- 21 11/21/2005 (493424)
- 22 12/20/2005 (493426)
- 23 02/17/2006 (493407)

24 03/15/2006 (493408)
25 04/20/2006 (506747)
26 04/24/2006 (506750)
27 04/24/2006 (506751)
28 05/22/2006 (506748)
29 06/20/2006 (506749)
30 08/21/2006 (528895)
31 09/19/2006 (528896)
32 10/16/2006 (552040)
33 10/16/2006 (552041)
34 11/15/2006 (552042)
35 12/19/2006 (552043)
36 02/20/2007 (589464)
37 03/23/2007 (589465)
38 04/19/2007 (589466)
39 05/21/2007 (589467)
40 06/18/2007 (589468)
41 08/02/2007 (567832)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 11/30/2006 (552043)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 03/31/2007 (589466)

Self Report? YES Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING UPPER TRINITY
REGIONAL WATER DISTRICT
RN102079076**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1525-MWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Upper Trinity Regional Water District ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located on the south side of the Little Elm Creek branch of Lewisville Lake, approximately 3,000 feet northwest of the intersection of United States Highway 380 and Navo Road in Denton County, Texas (the "Facility").
2. The Respondent has discharged wastewater into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 6, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Three Thousand Four Hundred Dollars (\$3,400) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Six Hundred Eighty Dollars (\$680) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order and Two Thousand Seven Hundred Twenty Dollars (\$2,720) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP"). The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Facility:
 - a. On November 30, 2006, disabled an automatic chemical feed that malfunctioned and contributed to the November 2006 violation;
 - b. During February 2007, due to ongoing foaming conditions throughout the Facility, the manufacturer of the Facility conducted three days of training on operation and maintenance of the sequencing batch reactors. Additionally, a consultant advised on operation and maintenance for the Facility; and
 - c. During April 2007, returned to compliance with permitted effluent limitations.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have failed to comply with permitted effluent limitations as detailed in the effluent violation table below, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System Permit No. 10698002, Interim II Effluent Limitations and Monitoring Requirements No. 1, Outfalls 001 and 002, as documented during a record review conducted on July 16, 2007.

| | November 2006 | March 2007 |
|---|---------------|------------|
| Outfall 001 | | |
| Ammonia Nitrogen Daily Average Loading Permit Limit = 13 pounds per day | 28.97 | compliant |
| Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 milligrams per liter | 7.39 | 3.71 |
| Ammonia Nitrogen Daily Average Maximum Concentration Permit Limit = 10 milligrams per liter | 24.9 | 25.80 |
| Outfall 002 | | |
| Ammonia Nitrogen Daily Average Concentration Permit Limit = 3 milligrams per liter | 7.39 | 3.71 |
| Ammonia Nitrogen Daily Average Maximum Concentration Permit Limit = 10 milligrams per liter | 24.9 | 25.80 |

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Upper Trinity Regional Water District, Docket No. 2007-1525-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6, Two Thousand Seven Hundred Twenty Dollars (\$2,720) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the City shall be made in writing to the Executive Director. Extensions are not effective until the City receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/10/2008

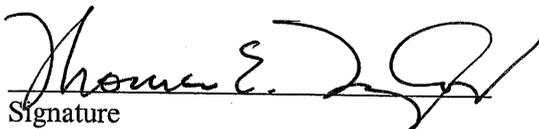
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

January 17, 2008

Date

Thomas E. Taylor

Name (Printed or typed)
Authorized Representative of
Upper Trinity Regional Water District

Executive Director

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1525-MWD-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: Upper Trinity Regional Water District
Penalty Amount: Two Thousand Seven Hundred Twenty Dollars (\$2,720)
SEP Offset Amount: Two Thousand Seven Hundred Twenty Dollars (\$2,720)
Type of SEP: Custom (with pre-approved concept)
Location of SEP: Denton County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for the Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent shall hold a one-day household hazardous waste collection event in Denton County at no cost to citizens. The event shall include collection and proper disposal of cleaning products, paint thinners, petroleum products, and lawn fertilizers. The Respondent shall ensure that the event:

- occurs on a weekend during daylight hours;
- offers to the public a convenient drop-off location; and
- is advertised to the public to ensure participation in the event.

The event will involve a staging area where the Respondent’s employees or contractors shall collect, sort, and properly seal the wastes for transport by a licensed transporter. SEP monies will be used for heavy equipment including roll-off bins, trailers, overtime labor of employees, public announcement of the event, disposal fees, and other approved costs.

The Respondent shall perform this project in accordance with all federal, state and local environmental laws and regulations. The Respondent shall use the SEP Offset Amount only for the direct cost of implementing the project and no portion shall be spent on administrative costs.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by providing for the proper disposal of chemicals and wastes that can leach into the soil, water, and air, as well as help rid the community of the dangers and health threats associated with non-regulated dumping.

C. Minimum Expenditure

The Respondent shall spend at least the SEP Offset Amount to complete the project described above and comply with all other provisions of this Attachment A.

2. Performance Schedule

The Respondent shall complete the project within 365 days after the effective date of this Agreed Order.

3. Reporting

A. Progress Reports

Within 90 days after the effective date of this Agreed Order, the Respondent shall submit a report to the TCEQ indicating the progress made to date and setting forth a schedule for achieving completion within the time required above. There are no other interim performance milestones for this one-day collection and recycling event.

B. Final Report

Within 30 days after completion of the project, the Respondent shall submit a report to the TCEQ which includes:

1. An itemized list of expenditures and costs incurred with receipts, copies of checks, or other verifying documentation attached and a total amount of the costs incurred;
2. Map showing specific location of the event area;
3. Photographs of the project;
4. Number of pounds or gallons of wastes collected;
5. A statement of quantifiable environmental benefits;
6. Copies of manifests showing proper transport and disposal of the wastes; and
7. Any additional information the Respondent believes will demonstrate compliance with this Attachment A.

C. Address

The Respondent shall submit all SEP reports and any requested additional information to the following address:

Litigation Division Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

The Respondent shall provide any additional information required by TCEQ staff and allow access to all records related to the receipt and expenditure of SEP funds. The Respondent shall also allow a representative

of the TCEQ access to the site of any work being financed in whole or in part by SEP funds. This provision survives the termination of this Agreed Order.

5. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Section 3 above, the TCEQ staff may require immediate payment of all or part of the SEP Offset Amount.

In the event of incomplete performance, the Respondent shall include on the check the docket number of this Agreed Order and a note that it is for reimbursement of a SEP. The payment for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Litigation Division Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

7. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program. Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as a SEP for the Respondent under any other orders negotiated with the TCEQ or any other agency of the state or federal government.

